

Phase Two Protest Procedures

Protests Regarding Responsiveness and Finalist Selection Process after Submission of RFPs

A submitter may protest the results of the evaluation and finalist selection process by filing a notice of protest by hand delivery or courier to the point of contact. The protesting submitter shall concurrently provide a copy of its notice of protest to the other submitters. The notice of protest shall specifically state the grounds of the protest.

Notice of protest of any decision to accept or disqualify a RFP on responsiveness grounds must be filed within five (5) business days after the earliest of: notification of non-responsiveness, the scheduled date for oral meetings and presentations (if any), or the public announcement of the finalists. Notice of protest of the decision on the finalist selection process must be filed and actually received by the Department of Enterprise Services (Enterprise Services) within five (5) business days after the public announcement of the finalists.

Within seven (7) calendar days of the notice of protest, the protesting submitter must file with the point of contact a detailed statement of the grounds, legal authorities and facts, including all documents and evidentiary statements, in support of the protest. The protesting submitter shall concurrently deliver a copy of the detailed statement to all other submitters. Evidentiary statements, if any, shall be submitted as signed certified declarations under penalty of perjury. The protesting submitter shall have the burden of proving its protest by clear and convincing evidence.

Failure to file a notice of protest or a detailed statement within the applicable period shall constitute an unconditional waiver of the right to protest the evaluation or finalist selection process and decisions thereunder, other than any protest based on facts not reasonably ascertainable as of such date.

Other submitters may file by hand delivery to the point of contact a statement in support of or in opposition to the protest. Such statement must be filed within seven (7) calendar days after the protesting submitter files its detailed statement of protest. Enterprise Services will promptly forward copies of any such statements to the protesting submitter.

No evidentiary hearing or oral argument shall be provided, except, in the sole and absolute discretion of Enterprise Services' Assistant Director of Facilities, a hearing or oral argument may be permitted if deemed useful in rendering a decision. Enterprise Services' Assistant Director of Facilities shall issue a written decision regarding the protest within thirty (30) calendar days after Enterprise Services receives the detailed statement of protest, unless notice is given to the protesting submitter that additional time is needed. Such decision shall be final and conclusive. Enterprise Services shall deliver the written decision to the protesting submitter and copies to the other submitters. Unless necessary for the successful completion of the project, as determined at the sole discretion of the Enterprise Services' Assistant Director of Facilities, the Request for Proposals shall not be issued to the finalists until Enterprise Services issues its written decision on the protest.

If the Enterprise Services' Assistant Director of Facilities concludes that the submitter filing the protest has established a basis for protest, the Enterprise Services' Assistant Director of Facilities will determine what remedial steps, if any, are necessary or appropriate to address the issues raised in the protest. Such steps may include, without limitation, withdrawing or revising the decisions, issuing a new RFP or taking other appropriate actions.